IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1765 OF 2006

M/s.Vibhushan Estates Pvt.Ltd. ..Petitioner

Vs.

The Municipal Corporation of
Greater Mumbai and Ors. ..Respondents

....

Mr.R.V.Walawalkar with Mr.S.G.Walan
Advocates for Petitioner
Mrs.A.K.Sawla Adv. for Respondents

....

CORAM: F.I.REBELLO AND
SMT.V.K.TAHILRAMANI,JJ.
DATE : JULY 24,2006

P.C.(PER SMT.V.K.TAHILRAMANI,J.):

1. Heard the learned counsel for the respective parties. In this petition filed under Article 226 of the Constitution of India, the Petitioner-Company has impugned Notices dated 19.11.2005, 14.3.2006 and 2.6.006 issued by the Respondent-Corporation under Section 279 of the Mumbai Municipal Corporation Act, 1988. By the said Notices, the Petitioner has been threatened with disconnection of water supply for failure to pay the water charges at the rates applicable for

commercial purposes.

2. There is no dispute that the Petitioner has been granted two water connections bearing Connection Nos. A-8280000 and A-8270006 in the size of 25x25 mm and 15x15 mm and both were for residential purposes. On inspection of the site, it was observed by the officials of the Corporation that the subject premises where these water connections had been provided, i.e. Vasonjee Lalji Bungalow, situated at 137, S.V.Road, Borivali (W) Mumbai-400092 were being used for non-residential purposes and more particularly for T.V. programming processing. The Corporation vide its Notice dated 19.12.2005 informed the Petitioner that as per the provisions of Rule 4.2 of the Water Charges Rules, the water supply was liable for disconnection under Section 279 of the Mumbai Municipal Corporation Act, 1888 on expiry of three days notice. The Petitioner sent its reply through its advocate informing inter alia to the Corporation that it had no objection to paying commercial charges with effect from 1.10.2005 and further requested not to disconnect the water supply. The same request was reiterated by the

Petitioner in its letter dated 11.1.2006 but with a further request to give a separate commercial connection. However, this additional request for separate commercial connection was turned down by the Corporation vide its letter dated 14.3.2006. Finally, by letter dated 2.6.2006, the Corporation demanded that the Petitioner make payments within seven days failing which, the water supply would be disconnected.

3. Section 279 of the Mumbai Municipal Corporation Act, inter alia states that the Commissioner may cut off the water connection of any premises in default of payment of any sum due by way of water charges within fifteen days after a Notice of demand for such sum has been duly served. In the instant case, the Petitioner has paid the water charges at the rates applicable for residential use and it agreed to pay the water charges at the rates applicable for commercial use with effect from 1.10.2005. The Corporation informed vide its communication dated 14.3.2006 that the entire subject property was assessed as commercial with effect from 1.4.1999 and therefore, it has demanded the total sum of Rs.14,35,716/-. Having regard to

the provisions of Section 279 of the Mumbai Municipal Corporation Act and Rule 4.2 of the Water Supply Rules, we are satisfied that the demand of the Corporation cannot be termed as illegal or contrary to the Act and Rules and therefore, the challenge to the said demand notice is unsustainable.

4. Petition therefore, fails and the same is hereby rejected summarily.

[F.I.REBELLO, J.]

[V.K.TAHILRAMANI,J.]